



Before: Duty Judge
Registry: Nairobi
Registrar: René M. Vargas M., Officer-in-Charge

KULALA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON CASE MANAGEMENT

Counsel for Applicant:

Marco Gambardella, OSLA

Counsel for Respondent:

Andrea Ernst, DAS/ALD/OHR, UN Secretariat

Introduction

1. By an application filed on 24 December 2023, the Applicant contests an administrative decision which he describes as follows:

Decision to withhold the Applicant's final separation entitlements, including salary, and to delay the release of the Staff Member's Separation Notification Form ("PF.4") and the issuance of his Personnel/Payroll Clearance Action Form ("P.35") ("UNJSPF entitlements") until the conclusion of the investigations against him for possible fraud by the Office of Internal Oversight Services ("OIOS"). The Administration failed to inform the Applicant that an OIOS investigation was ongoing at the time of his separation, failing to observe its duty to act fairly, justly, and transparently in its dealings with staff members. The Administration never established that the Applicant was indebted to the Organization. The Applicant suffered financial loss and moral harm as a result of this unlawful decision.

2. On 22 January 2024, the Tribunal issued Order No. 11 (NBI/2024) granting the Respondent's motion for an extension of time to file his reply to the application.

3. The reply was filed on 8 February 2024.

Consideration

Filing of a rejoinder

4. Pursuant to art. 19 of the Rules of Procedure of the Dispute Tribunal, the Tribunal may at any time issue an order or give any direction which appears to be appropriate for the fair and expeditious disposal of a case and to do justice to the parties.

5. Having taken into consideration the pleadings of the parties, the Tribunal has concluded that the Applicant should be given an opportunity to comment on the Respondent's reply.

Amicable settlement

6. Recalling that the General Assembly has consistently encouraged alternative dispute resolution, the Tribunal finds it also appropriate to encourage the parties to explore the possibility of having the dispute between them resolved without recourse to further litigation.

7. In view of the foregoing, it is ORDERED THAT:

a. By **Tuesday, 25 June 2024**, the Applicant shall file a rejoinder. The rejoinder shall not exceed five pages.

b. The parties shall explore resolving the dispute amicably and revert to the Tribunal in this respect by **Tuesday, 2 July 2024**.

(Signed)

Judge Sean Wallace (Duty Judge)

Dated this 11th day of June 2024

Entered in the Register on this 11th day of June 2024

(Signed)

Eric Muli, Legal Officer, for René M. Vargas M., Officer-in-Charge, Nairobi